

108TH CONGRESS
1ST SESSION

H. R. 3420

To promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2003

Ms. ROYBAL-ALLARD (for herself, Mrs. MALONEY, Mr. ABERCROMBIE, Mr. DAVIS of Illinois, Mr. FARR, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HINOJOSA, Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KIND, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. McNULTY, Mr. MOORE, Mrs. NAPOLITANO, Ms. NORTON, Mr. OWENS, Mr. PALLONE, Mr. REYES, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. STARK, Mrs. TAUSCHER, Ms. WATSON, Mr. WEINER, Mr. WU, Ms. BALDWIN, Ms. MCCOLLUM, Ms. WATERS, Ms. BERKLEY, and Mr. KUCINICH) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Security and Financial Empowerment Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Definitions.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE

Sec. 101. Purposes.
 Sec. 102. Entitlement to emergency leave for addressing domestic or sexual violence.
 Sec. 103. Existing leave usable for addressing domestic or sexual violence.
 Sec. 104. Emergency benefits.
 Sec. 105. Effect on other laws and employment benefits.
 Sec. 106. Conforming amendments.
 Sec. 107. Effective date.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 201. Purposes.
 Sec. 202. Unemployment compensation and training provisions.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

Sec. 301. Short title.
 Sec. 302. Purposes.
 Sec. 303. Prohibited discriminatory acts.
 Sec. 304. Enforcement.
 Sec. 305. Attorney's fees.

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

Sec. 401. Short title.
 Sec. 402. Definitions.
 Sec. 403. Discriminatory acts prohibited.
 Sec. 404. Insurance protocols for subjects of abuse.
 Sec. 405. Reasons for adverse actions.
 Sec. 406. Life insurance.
 Sec. 407. Subrogation without consent prohibited.
 Sec. 408. Enforcement.
 Sec. 409. Effective date.

TITLE V—WORKPLACE SAFETY PROGRAM TAX CREDIT

Sec. 501. Credit for costs to employers of implementing workplace safety programs.

TITLE VI—NATIONAL CLEARINGHOUSE ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

Sec. 601. National clearinghouse on domestic and sexual violence in the workplace grant.

TITLE VII—SEVERABILITY

Sec. 701. Severability.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Domestic violence crimes account for ap-
4 proximately 15 percent of total crime costs in the
5 United States each year.

6 (2) Violence against women has been reported
7 to be the leading cause of physical injury to women.
8 Such violence has a devastating impact on women's
9 physical and emotional health and financial security.

10 (3) According to a recent National Institutes of
11 Health—Centers for Disease Control and Prevention
12 study, each year there are 5,300,000 non-fatal vio-
13 lent victimizations committed by intimate partners
14 against women. Female murder victims were sub-
15 stantially more likely than male murder victims to
16 have been killed by an intimate partner. About $\frac{1}{3}$ of
17 female murder victims, and about 4 percent of male
18 murder victims, were killed by an intimate partner.

19 (4) According to recent government estimates,
20 approximately 987,400 rapes occur annually in the
21 United States, 89 percent of the rapes perpetrated
22 against female victims. Since 2001, rapes have actu-
23 ally increased by 4 percent.

1 (5) Approximately 10,200,000 people have been
2 stalked at some time in their lives. Four out of every
3 5 stalking victims are women. Stalkers harass and
4 terrorize their victims by spying on the victims,
5 standing outside their places of work or homes, mak-
6 ing unwanted phone calls, sending or leaving un-
7 wanted letters or items, or vandalizing property.

8 (6) Employees in the United States who have
9 been victims of domestic violence, dating violence,
10 sexual assault, or stalking too often suffer adverse
11 consequences in the workplace as a result of their
12 victimization.

13 (7) Victims of domestic violence, dating vio-
14 lence, sexual assault, and stalking are particularly
15 vulnerable to changes in employment, pay, and bene-
16 fits as a result of their victimizations, and are,
17 therefore, in need of legal protection.

18 (8) The prevalence of domestic violence, dating
19 violence, sexual assault, stalking, and other violence
20 against women at work is dramatic. About 36,500
21 individuals, 80 percent of whom are women, were
22 raped or sexually assaulted in the workplace each
23 year from 1993 through 1999. Half of all female
24 victims of violent workplace crimes know their
25 attackers. Nearly 1 out of 10 violent workplace inci-

1 dents are committed by partners or spouses. Women
2 who work for State and local governments suffer a
3 higher incidence of workplace assaults, including
4 rapes, than women who work in the private sector.

5 (9) Homicide is the leading cause of death for
6 women on the job. Husbands, boyfriends, and ex-
7 partners commit 15 percent of workplace homicides
8 against women.

9 (10) Studies indicate that between 35 and 56
10 percent of employed battered women surveyed were
11 harassed at work by their abusive partners.

12 (11) According to a 1998 report of the General
13 Accounting Office, between $\frac{1}{4}$ and $\frac{1}{2}$ of domestic
14 violence victims surveyed in 3 studies reported that
15 the victims lost a job due, at least in part, to domes-
16 tic violence.

17 (12) Women who have experienced domestic vi-
18 olence or dating violence are more likely than other
19 women to be unemployed, to suffer from health
20 problems that can affect employability and job per-
21 formance, to report lower personal income, and to
22 rely on welfare.

23 (13) Abusers frequently seek to control their
24 partners by actively interfering with their ability to
25 work, including preventing their partners from going

1 to work, harassing their partners at work, limiting
2 the access of their partners to cash or transpor-
3 tation, and sabotaging the child care arrangements
4 of their partners.

5 (14) More than $\frac{1}{2}$ of women receiving welfare
6 have been victims of domestic violence as adults and
7 between $\frac{1}{4}$ and $\frac{1}{3}$ reported being abused in the last
8 year.

9 (15) Victims of intimate partner violence lose
10 8,000,000 days of paid work each year—the equiva-
11 lent of over 32,000 full-time jobs and 5,600,000
12 days of household productivity.

13 (16) Sexual assault, whether occurring in or out
14 of the workplace, can impair an employee's work
15 performance, require time away from work, and un-
16 dermine the employee's ability to maintain a job. Al-
17 most 50 percent of sexual assault survivors lose their
18 jobs or are forced to quit in the aftermath of the as-
19 saults.

20 (17) More than 35 percent of stalking victims
21 report losing time from work due to the stalking and
22 7 percent never return to work.

23 (18)(A) According to the National Institute of
24 Justice, crime costs an estimated \$450,000,000,000
25 annually in medical expenses, lost earnings, social

1 service costs, pain, suffering, and reduced quality of
2 life for victims, which harms the Nation's produc-
3 tivity and drains the Nation's resources.

4 (B) Violent crime accounts for
5 \$426,000,000,000 per year of this amount.

6 (C) Rape exacts the highest costs per victim of
7 any criminal offense, and accounts for
8 \$127,000,000,000 per year of the amount described
9 in subparagraph (A).

10 (19) Violent crime results in wage losses equiv-
11 alent to 1 percent of all United States earnings, and
12 causes 3 percent of the Nation's medical spending
13 and 14 percent of the Nation's injury-related med-
14 ical spending.

15 (20) The Bureau of National Affairs has esti-
16 mated that domestic violence costs United States
17 employers between \$3,000,000,000 and
18 \$5,000,000,000 annually in lost time and produc-
19 tivity, while other reports have estimated the cost at
20 between \$5,800,000,000 and \$13,000,000,000 annu-
21 ally.

22 (21) United States medical costs for domestic
23 violence have been estimated to be \$31,000,000,000
24 per year.

1 (22) Surveys of business executives and cor-
2 porate security directors also underscore the heavy
3 toll that workplace violence takes on women, busi-
4 nesses, and interstate commerce in the United
5 States.

6 (23) Ninety-four percent of corporate security
7 and safety directors at companies nationwide rank
8 domestic violence as a high security concern.

9 (24) Forty-nine percent of senior executives re-
10 cently surveyed said domestic violence has a harmful
11 effect on their company's productivity, 47 percent
12 said domestic violence negatively affects attendance,
13 and 44 percent said domestic violence increases
14 health care costs.

15 (25) Only 25 States have laws that explicitly
16 provide unemployment insurance to domestic vio-
17 lence victims in certain circumstances, and none of
18 the laws explicitly cover victims of sexual assault or
19 stalking.

20 (26) Only 6 States provide domestic violence
21 victims with leave from work to go to court, to the
22 doctor, or to take other steps to address the domes-
23 tic violence in their lives, and only Maine provides
24 such leave to victims of sexual assault and stalking.

1 (27) No States prohibit employment discrimina-
2 tion against victims of domestic violence, sexual as-
3 sault, or stalking. Five States provide limited protec-
4 tion to some victims under certain circumstances.

5 (28) Employees, including individuals partici-
6 pating in welfare to work programs, may need to
7 take time during business hours to—

8 (A) obtain orders of protection;

9 (B) seek medical or legal assistance, coun-
10 seling, or other services; or

11 (C) look for housing in order to escape
12 from domestic violence.

13 (29) Domestic and sexual violence victims have
14 been subjected to discrimination by private and
15 State employers, including discrimination motivated
16 by sex and stereotypic notions about women.

17 (30) Domestic violence victims and third parties
18 who help them have been subjected to discriminatory
19 practices by health, life, disability, and property and
20 casualty insurers and employers who self-insure em-
21 ployee benefits who have denied or canceled cov-
22 erage, rejected claims, and raised rates based on do-
23 mestic violence. Although some State legislatures
24 have tried to address these problems, the scope of
25 protection afforded by the laws adopted varies from

1 State to State, with many failing to address the
2 problem comprehensively. Moreover, Federal law
3 prevents States from protecting the almost 40 per-
4 cent of employees whose employers self-insure em-
5 ployee benefits.

6 (31) Existing Federal law does not explicitly—

7 (A) authorize victims of domestic violence,
8 dating violence, sexual assault, or stalking to
9 take leave from work to seek legal assistance
10 and redress, counseling, or assistance with safe-
11 ty planning activities;

12 (B) address the eligibility of victims of do-
13 mestic violence, dating violence, sexual assault,
14 or stalking for unemployment compensation;

15 (C) prohibit employment discrimination
16 against actual or perceived victims of domestic
17 violence, dating violence, sexual assault, or
18 stalking; or

19 (D) prohibit insurers and employers who
20 self-insure employee benefits from discrimi-
21 nating against domestic violence victims and
22 those who help them in determining eligibility,
23 rates charged, and standards for payment of
24 claims; nor does it prohibit insurers from disclo-
25 sure of information about abuse and the vic-

1 tim’s location through insurance databases and
2 other means.

3 **SEC. 3. DEFINITIONS.**

4 In this Act, except as otherwise expressly provided:

5 (1) **COMMERCE.**—The terms “commerce” and
6 “industry or activity affecting commerce” have the
7 meanings given the terms in section 101 of the
8 Family and Medical Leave Act of 1993 (29 U.S.C.
9 2611).

10 (2) **COURSE OF CONDUCT.**—The term “course
11 of conduct” means a course of repeatedly maintain-
12 ing a visual or physical proximity to a person or con-
13 veying verbal or written threats, including threats
14 conveyed through electronic communications, or
15 threats implied by conduct.

16 (3) **DATING VIOLENCE.**—The term “dating vio-
17 lence” has the meaning given the term in section
18 826 of the Higher Education Amendments of 1998
19 (20 U.S.C. 1152).

20 (4) **DOMESTIC OR SEXUAL VIOLENCE.**—The
21 term “domestic or sexual violence” means domestic
22 violence, dating violence, sexual assault, or stalking.

23 (5) **DOMESTIC VIOLENCE.**—The term “domestic
24 violence” has the meaning given the term in section

1 826 of the Higher Education Amendments of 1998
2 (20 U.S.C. 1152).

3 (6) DOMESTIC VIOLENCE COALITION.—The
4 term “domestic violence coalition” means a non-
5 profit, nongovernmental membership organization
6 that—

7 (A) consists of the entities carrying out a
8 majority of the domestic violence programs car-
9 ried out within a State;

10 (B) collaborates and coordinates activities
11 with Federal, State, and local entities to further
12 the purposes of domestic violence intervention
13 and prevention; and

14 (C) among other activities, provides train-
15 ing and technical assistance to entities carrying
16 out domestic violence programs within a State,
17 territory, political subdivision, or area under
18 Federal authority.

19 (7) ELECTRONIC COMMUNICATIONS.—The term
20 “electronic communications” includes communica-
21 tions via telephone, mobile phone, computer, e-mail,
22 video recorder, fax machine, telex, or pager.

23 (8) EMPLOY; STATE.—The terms “employ” and
24 “State” have the meanings given the terms in sec-

tion 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(9) EMPLOYEE.—

(A) IN GENERAL.—The term “employee” means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(B) BASIS.—The term includes a person employed as described in subparagraph (A) on a full- or part-time basis, for a fixed time period, on a temporary basis, pursuant to a detail, as an independent contractor, or as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

(10) EMPLOYER.—The term “employer”—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more individuals; and

(B) includes any person acting directly or indirectly in the interest of an employer in rela-

tion to an employee, and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(11) EMPLOYMENT BENEFITS.—The term “employment benefits” means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an “employee benefit plan”, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(12) FAMILY OR HOUSEHOLD MEMBER.—The term “family or household member” means a spouse, former spouse, parent, son or daughter, or person residing or formerly residing in the same dwelling unit.

(13) PARENT; SON OR DAUGHTER.—The terms “parent” and “son or daughter” have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

1 (14) PERSON.—The term “person” has the
2 meaning given the term in section 3 of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 203).

4 (15) PUBLIC AGENCY.—The term “public agen-
5 cy” has the meaning given the term in section 3 of
6 the Fair Labor Standards Act of 1938 (29 U.S.C.
7 203).

8 (16) PUBLIC ASSISTANCE.—The term “public
9 assistance” includes cash, food stamps, medical as-
10 sistance, housing assistance, and other benefits pro-
11 vided on the basis of income by a public agency.

12 (17) REDUCED LEAVE SCHEDULE.—The term
13 “reduced leave schedule” means a leave schedule
14 that reduces the usual number of hours per work-
15 week, or hours per workday, of an employee.

16 (18) REPEATEDLY.—The term “repeatedly”
17 means on 2 or more occasions.

18 (19) SECRETARY.—The term “Secretary”
19 means the Secretary of Labor.

20 (20) SEXUAL ASSAULT.—The term “sexual as-
21 sault” has the meaning given the term in section
22 826 of the Higher Education Amendments of 1998
23 (20 U.S.C. 1152).

1 (21) SEXUAL ASSAULT COALITION.—The term
2 “sexual assault coalition” means a nonprofit, non-
3 governmental membership organization that—

4 (A) consists of the entities carrying out a
5 majority of the sexual assault programs carried
6 out within a State;

7 (B) collaborates and coordinates activities
8 with Federal, State, and local entities to further
9 the purposes of sexual assault intervention and
10 prevention; and

11 (C) among other activities, provides train-
12 ing and technical assistance to entities carrying
13 out sexual assault programs within a State, ter-
14 ritory, political subdivision, or area under Fed-
15 eral authority.

16 (22) STALKING.—The term “stalking” means
17 engaging in a course of conduct directed at a spe-
18 cific person that would cause a reasonable person to
19 suffer substantial emotional distress or to fear bodily
20 injury, sexual assault, or death to the person, or the
21 person’s spouse, parent, or son or daughter, or any
22 other person who regularly resides in the person’s
23 household, if the conduct causes the specific person
24 to have such distress or fear.

1 (23) VICTIM OF DOMESTIC OR SEXUAL VIO-
 2 LENCE.—The term “victim of domestic or sexual vi-
 3 olence” includes a person who has been a victim of
 4 domestic or sexual violence and a person whose fam-
 5 ily or household member has been a victim of domes-
 6 tic or sexual violence.

7 (24) VICTIM SERVICES ORGANIZATION.—The
 8 term “victim services organization” means a non-
 9 profit, nongovernmental organization that provides
 10 assistance to victims of domestic or sexual violence
 11 or to advocates for such victims, including a rape
 12 crisis center, an organization carrying out a domes-
 13 tic violence program, an organization operating a
 14 shelter or providing counseling services, or an orga-
 15 nization providing assistance through the legal proc-
 16 ess.

17 **TITLE I—ENTITLEMENT TO**
 18 **EMERGENCY LEAVE FOR AD-**
 19 **DRESSING DOMESTIC OR SEX-**
 20 **UAL VIOLENCE**

21 **SEC. 101. PURPOSES.**

22 The purposes of this title are, pursuant to the affirm-
 23 ative power of Congress to enact legislation under the por-
 24 tions of section 8 of article I of the Constitution relating
 25 to providing for the general welfare and to regulation of

1 commerce among the several States, and under section 5
2 of the 14th amendment to the Constitution—

3 (1) to promote the national interest in reducing
4 domestic violence, dating violence, sexual assault,
5 and stalking by enabling victims of domestic or sex-
6 ual violence to maintain the financial independence
7 necessary to leave abusive situations, achieve safety,
8 and minimize the physical and emotional injuries
9 from domestic or sexual violence, and to reduce the
10 devastating economic consequences of domestic or
11 sexual violence to employers and employees;

12 (2) to promote the national interest in ensuring
13 that victims of domestic or sexual violence can re-
14 cover from and cope with the effects of such vio-
15 lence, and participate in criminal and civil justice
16 processes, without fear of adverse economic con-
17 sequences from their employers;

18 (3) to ensure that victims of domestic or sexual
19 violence can recover from and cope with the effects
20 of such violence, and participate in criminal and civil
21 justice processes, without fear of adverse economic
22 consequences with respect to public benefits;

23 (4) to promote the purposes of the 14th amend-
24 ment by preventing sex-based discrimination and
25 discrimination against victims of domestic and sex-

1 ual violence in employment leave, addressing the
2 failure of existing laws to protect the employment
3 rights of victims of domestic or sexual violence, by
4 protecting their civil and economic rights, and by
5 furthering the equal opportunity of women for eco-
6 nomic self-sufficiency and employment free from dis-
7 crimination;

8 (5) to minimize the negative impact on inter-
9 state commerce from dislocations of employees and
10 harmful effects on productivity, employment, health
11 care costs, and employer costs, caused by domestic
12 or sexual violence, including intentional efforts to
13 frustrate women's ability to participate in employ-
14 ment and interstate commerce;

15 (6) to further the goals of human rights and
16 dignity reflected in instruments such as the United
17 Nations Charter, the Universal Declaration of
18 Human Rights, and the International Covenant on
19 Civil and Political Rights; and

20 (7) to accomplish the purposes described in
21 paragraphs (1) through (6) by—

22 (A) entitling employed victims of domestic
23 or sexual violence to take leave to seek medical
24 help, legal assistance, counseling, safety plan-

ning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.

(a) LEAVE REQUIREMENT.—

(1) BASIS.—An employee who is a victim of domestic or sexual violence may take leave from work to address domestic or sexual violence, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;

(B) obtaining services from a victim services organization for the employee or the employee's family or household member;

(C) obtaining psychological or other counseling for the employee or the employee's family or household member;

1 (D) participating in safety planning, tem-
2 porarily or permanently relocating, or taking
3 other actions to increase the safety of the em-
4 ployee or the employee's family or household
5 member from future domestic or sexual violence
6 or ensure economic security; or

7 (E) seeking legal assistance or remedies to
8 ensure the health and safety of the employee or
9 the employee's family or household member, in-
10 cluding preparing for or participating in any
11 civil or criminal legal proceeding related to or
12 derived from domestic or sexual violence.

13 (2) PERIOD.—An employee may take not more
14 than 30 days of leave, as described in paragraph (1),
15 in any 12-month period.

16 (3) SCHEDULE.—Leave described in paragraph
17 (1) may be taken intermittently or on a reduced
18 leave schedule.

19 (b) NOTICE.—The employee shall provide the em-
20 ployer with reasonable notice of the employee's intention
21 to take the leave, unless providing such notice is not prac-
22 ticable.

23 (c) CERTIFICATION.—

1 (1) IN GENERAL.—The employer may require
2 the employee to provide certification to the employer
3 that—

4 (A) the employee or the employee’s family
5 or household member is a victim of domestic or
6 sexual violence; and

7 (B) the leave is for 1 of the purposes enu-
8 merated in subsection (a)(1).

9 The employee shall provide a copy of such certifi-
10 cation to the employer within a reasonable period
11 after the employer requests certification.

12 (2) CONTENTS.—An employee may satisfy the
13 certification requirement of paragraph (1) by pro-
14 viding to the employer—

15 (A) a sworn statement of the employee;

16 (B) documentation from an employee,
17 agent, or volunteer of a victim services organi-
18 zation, an attorney, a member of the clergy, or
19 a medical or other professional, from whom the
20 employee or the employee’s family or household
21 member has sought assistance in addressing do-
22 mestic or sexual violence and the effects of the
23 violence;

24 (C) a police or court record; or

25 (D) other corroborating evidence.

1 (d) CONFIDENTIALITY.—All information provided to
2 the employer pursuant to subsection (b) or (c), including
3 a statement of the employee or any other documentation,
4 record, or corroborating evidence, and the fact that the
5 employee has requested or obtained leave pursuant to this
6 section, shall be retained in the strictest confidence by the
7 employer, except to the extent that disclosure is—

8 (1) requested or consented to by the employee
9 in writing; or

10 (2) otherwise required by applicable Federal or
11 State law.

12 (e) EMPLOYMENT AND BENEFITS.—

13 (1) RESTORATION TO POSITION.—

14 (A) IN GENERAL.—Except as provided in
15 paragraph (2), any employee who takes leave
16 under this section for the intended purpose of
17 the leave shall be entitled, on return from such
18 leave—

19 (i) to be restored by the employer to
20 the position of employment held by the em-
21 ployee when the leave commenced; or

22 (ii) to be restored to an equivalent po-
23 sition with equivalent employment benefits,
24 pay, and other terms and conditions of em-
25 ployment.

1 (B) LOSS OF BENEFITS.—The taking of
2 leave under this section shall not result in the
3 loss of any employment benefit accrued prior to
4 the date on which the leave commenced.

5 (C) LIMITATIONS.—Nothing in this sub-
6 section shall be construed to entitle any re-
7 stored employee to—

8 (i) the accrual of any seniority or em-
9 ployment benefits during any period of
10 leave; or

11 (ii) any right, benefit, or position of
12 employment other than any right, benefit,
13 or position to which the employee would
14 have been entitled had the employee not
15 taken the leave.

16 (D) CONSTRUCTION.—Nothing in this
17 paragraph shall be construed to prohibit an em-
18 ployer from requiring an employee on leave
19 under this section to report periodically to the
20 employer on the status and intention of the em-
21 ployee to return to work.

22 (2) EXEMPTION CONCERNING CERTAIN HIGHLY
23 COMPENSATED EMPLOYEES.—

24 (A) DENIAL OF RESTORATION.—An em-
25 ployer may deny restoration under paragraph

1 (1) to any employee described in subparagraph
2 (B) if—

3 (i) such denial is necessary to prevent
4 substantial and grievous economic injury to
5 the operations of the employer;

6 (ii) the employer notifies the employee
7 of the intent of the employer to deny res-
8 toration on such basis at the time the em-
9 ployer determines that such injury would
10 occur; and

11 (iii) in any case in which the leave has
12 commenced, the employee elects not to re-
13 turn to employment after receiving such
14 notice.

15 (B) AFFECTED EMPLOYEES.—An employee
16 referred to in subparagraph (A) is a salaried
17 employee who is among the highest paid 10 per-
18 cent of the employees employed by the employer
19 within 75 miles of the facility at which the em-
20 ployee is employed.

21 (3) MAINTENANCE OF HEALTH BENEFITS.—

22 (A) COVERAGE.—Except as provided in
23 subparagraph (B), during any period that an
24 employee takes leave under this section, the em-
25 ployer shall maintain coverage under any group

1 health plan (as defined in section 5000(b)(1) of
2 the Internal Revenue Code of 1986) for the du-
3 ration of such leave at the level and under the
4 conditions coverage would have been provided if
5 the employee had continued in employment con-
6 tinuously for the duration of such leave.

7 (B) FAILURE TO RETURN FROM LEAVE.—

8 The employer may recover the premium that
9 the employer paid for maintaining coverage for
10 the employee under such group health plan dur-
11 ing any period of leave under this section if—

12 (i) the employee fails to return from
13 leave under this section after the period of
14 leave to which the employee is entitled has
15 expired; and

16 (ii) the employee fails to return to
17 work for a reason other than—

18 (I) the continuation, recurrence,
19 or onset of domestic or sexual vio-
20 lence, that entitles the employee to
21 leave pursuant to this section; or

22 (II) other circumstances beyond
23 the control of the employee.

24 (C) CERTIFICATION.—

1 (i) ISSUANCE.—An employer may re-
2 quire an employee who claims that the em-
3 ployee is unable to return to work because
4 of a reason described in subclause (I) or
5 (II) of subparagraph (B)(ii) to provide,
6 within a reasonable period after making
7 the claim, certification to the employer
8 that the employee is unable to return to
9 work because of that reason.

10 (ii) CONTENTS.—An employee may
11 satisfy the certification requirement of
12 clause (i) by providing to the employer—

13 (I) a sworn statement of the em-
14 ployee;

15 (II) documentation from an em-
16 ployee, agent, or volunteer of a victim
17 services organization, an attorney, a
18 member of the clergy, or a medical or
19 other professional, from whom the
20 employee has sought assistance in ad-
21 dressing domestic or sexual violence
22 and the effects of that violence;

23 (III) a police or court record; or

24 (IV) other corroborating evi-
25 dence.

1 (D) CONFIDENTIALITY.—All information
2 provided to the employer pursuant to subpara-
3 graph (C), including a statement of the em-
4 ployee or any other documentation, record, or
5 corroborating evidence, and the fact that the
6 employee is not returning to work because of a
7 reason described in subclause (I) or (II) of sub-
8 paragraph (B)(ii) shall be retained in the strict-
9 est confidence by the employer, except to the
10 extent that disclosure is—

11 (i) requested or consented to by the
12 employee; or

13 (ii) otherwise required by applicable
14 Federal or State law.

15 (f) PROHIBITED ACTS.—

16 (1) INTERFERENCE WITH RIGHTS.—

17 (A) EXERCISE OF RIGHTS.—It shall be un-
18 lawful for any employer to interfere with, re-
19 strain, or deny the exercise of or the attempt to
20 exercise, any right provided under this section.

21 (B) EMPLOYER DISCRIMINATION.—It shall
22 be unlawful for any employer to discharge or
23 harass any individual, or otherwise discriminate
24 against any individual with respect to com-
25 pensation, terms, conditions, or privileges of

1 employment of the individual (including retalia-
2 tion in any form or manner) because the indi-
3 vidual—

4 (i) exercised any right provided under
5 this section; or

6 (ii) opposed any practice made unlaw-
7 ful by this section.

8 (C) PUBLIC AGENCY SANCTIONS.—It shall
9 be unlawful for any public agency to deny, re-
10 duce, or terminate the benefits of, otherwise
11 sanction, or harass any individual, or otherwise
12 discriminate against any individual with respect
13 to the amount, terms, or conditions of public
14 assistance of the individual (including retalia-
15 tion in any form or manner) because the indi-
16 vidual—

17 (i) exercised any right provided under
18 this section; or

19 (ii) opposed any practice made unlaw-
20 ful by this section.

21 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
22 QUIRIES.—It shall be unlawful for any person to dis-
23 charge or in any other manner discriminate (as de-
24 scribed in subparagraph (B) or (C) of paragraph

1 (1)) against any individual because such indi-
2 vidual—

3 (A) has filed any charge, or has instituted
4 or caused to be instituted any proceeding,
5 under or related to this section;

6 (B) has given, or is about to give, any in-
7 formation in connection with any inquiry or
8 proceeding relating to any right provided under
9 this section; or

10 (C) has testified, or is about to testify, in
11 any inquiry or proceeding relating to any right
12 provided under this section.

13 (g) ENFORCEMENT.—

14 (1) CIVIL ACTION BY AFFECTED INDIVID-
15 UALS.—

16 (A) LIABILITY.—Any employer or public
17 agency that violates subsection (f) shall be lia-
18 ble to any individual affected—

19 (i) for damages equal to—

20 (I) the amount of—

21 (aa) any wages, salary, em-
22 ployment benefits, public assist-
23 ance, or other compensation de-
24 nied or lost to such individual by
25 reason of the violation; or

1 (bb) in a case in which
2 wages, salary, employment bene-
3 fits, public assistance, or other
4 compensation has not been de-
5 nied or lost to the individual, any
6 actual monetary losses sustained
7 by the individual as a direct re-
8 sult of the violation;

9 (II) the interest on the amount
10 described in subclause (I) calculated
11 at the prevailing rate; and

12 (III) an additional amount as liq-
13 uidated damages equal to the sum of
14 the amount described in subclause (I)
15 and the interest described in sub-
16 clause (II), except that if an employer
17 or public agency that has violated
18 subsection (f) proves to the satisfac-
19 tion of the court that the act or omis-
20 sion that violated subsection (f) was
21 in good faith and that the employer or
22 public agency had reasonable grounds
23 for believing that the act or omission
24 was not a violation of subsection (f),
25 such court may, in the discretion of

1 the court, reduce the amount of the li-
2 ability to the amount and interest de-
3 termined under subclauses (I) and
4 (II), respectively; and

5 (ii) for such equitable relief as may be
6 appropriate, including employment, rein-
7 statement, and promotion.

8 (B) RIGHT OF ACTION.—An action to re-
9 cover the damages or equitable relief prescribed
10 in subparagraph (A) may be maintained against
11 any employer or public agency in any Federal
12 or State court of competent jurisdiction by any
13 1 or more affected individuals for and on behalf
14 of—

15 (i) the individuals; or

16 (ii) the individuals and other individ-
17 uals similarly situated.

18 (C) FEES AND COSTS.—The court in such
19 an action shall, in addition to any judgment
20 awarded to the plaintiff, allow a reasonable at-
21 torney's fee, reasonable expert witness fees, and
22 other costs of the action to be paid by the de-
23 fendant.

24 (D) LIMITATIONS.—The right provided by
25 subparagraph (B) to bring an action by or on

1 behalf of any affected individual shall termi-
2 nate—

3 (i) on the filing of a complaint by the
4 Secretary in an action under paragraph (4)
5 in which restraint is sought of any further
6 delay in the payment of the amount de-
7 scribed in subparagraph (A)(i) to such in-
8 dividual by an employer or public agency
9 responsible under subparagraph (A) for
10 the payment; or

11 (ii) on the filing of a complaint by the
12 Secretary in an action under paragraph (2)
13 in which a recovery is sought of the dam-
14 ages described in subparagraph (A)(i)
15 owing to an affected individual by an em-
16 ployer or public agency liable under sub-
17 paragraph (A),

18 unless the action described in clause (i) or (ii)
19 is dismissed without prejudice on motion of the
20 Secretary.

21 (2) ACTION BY THE SECRETARY.—

22 (A) ADMINISTRATIVE ACTION.—The Sec-
23 retary shall receive, investigate, and attempt to
24 resolve complaints of violations of subsection (f)
25 in the same manner as the Secretary receives,

1 investigates, and attempts to resolve complaints
2 of violations of sections 6 and 7 of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 206
4 and 207).

5 (B) CIVIL ACTION.—The Secretary may
6 bring an action in any court of competent juris-
7 diction to recover the damages described in
8 paragraph (1)(A)(i).

9 (C) SUMS RECOVERED.—Any sums recov-
10 ered by the Secretary pursuant to subparagraph
11 (B) shall be held in a special deposit account
12 and shall be paid, on order of the Secretary, di-
13 rectly to each individual affected. Any such
14 sums not paid to such an individual because of
15 inability to do so within a period of 3 years
16 shall be deposited into the Treasury of the
17 United States as miscellaneous receipts.

18 (3) LIMITATION.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), an action may be brought
21 under this subsection not later than 2 years
22 after the date of the last event constituting the
23 alleged violation for which the action is brought.

24 (B) WILLFUL VIOLATION.—In the case of
25 such action brought for a willful violation of

1 subsection (f), such action may be brought
2 within 3 years after the date of the last event
3 constituting the alleged violation for which such
4 action is brought.

5 (C) COMMENCEMENT.—In determining
6 when an action is commenced by the Secretary
7 under this subsection for the purposes of this
8 paragraph, it shall be considered to be com-
9 menced on the date when the complaint is filed.

10 (4) ACTION FOR INJUNCTION BY SECRETARY.—

11 The district courts of the United States shall have
12 jurisdiction, for cause shown, in an action brought
13 by the Secretary—

14 (A) to restrain violations of subsection (f),
15 including the restraint of any withholding of
16 payment of wages, salary, employment benefits,
17 public assistance, or other compensation, plus
18 interest, found by the court to be due to af-
19 fected individuals; or

20 (B) to award such other equitable relief as
21 may be appropriate, including employment, re-
22 instatement, and promotion.

23 (5) SOLICITOR OF LABOR.—The Solicitor of
24 Labor may appear for and represent the Secretary
25 on any litigation brought under this subsection.

1 (6) EMPLOYER LIABILITY UNDER OTHER
2 LAWS.—Nothing in this section shall be construed to
3 limit the liability of an employer or public agency to
4 an individual, for harm suffered relating to the indi-
5 vidual’s experience of domestic or sexual violence,
6 pursuant to any other Federal or State law, includ-
7 ing a law providing for a legal remedy.

8 **SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DO-**
9 **MESTIC OR SEXUAL VIOLENCE.**

10 An employee who is entitled to take paid or unpaid
11 leave (including family, medical, sick, annual, personal, or
12 similar leave) from employment, pursuant to State or local
13 law, a collective bargaining agreement, or an employment
14 benefits program or plan, may elect to substitute any pe-
15 riod of such leave for an equivalent period of leave pro-
16 vided under section 102.

17 **SEC. 104. EMERGENCY BENEFITS.**

18 (a) IN GENERAL.—A State may use funds provided
19 to the State under part A of title IV of the Social Security
20 Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-
21 term emergency benefits to an individual for any period
22 of leave the individual takes pursuant to section 102.

23 (b) ELIGIBILITY.—In calculating the eligibility of an
24 individual for such emergency benefits, the State shall

1 count only the cash available or accessible to the indi-
2 vidual.

3 (c) TIMING.—

4 (1) APPLICATIONS.—An individual seeking
5 emergency benefits under subsection (a) from a
6 State shall submit an application to the State.

7 (2) BENEFITS.—The State shall provide bene-
8 fits to an eligible applicant under paragraph (1) on
9 an expedited basis, and not later than 7 days after
10 the applicant submits an application under para-
11 graph (1).

12 (d) CONFORMING AMENDMENT.—Section 404 of the
13 Social Security Act (42 U.S.C. 604) is amended by adding
14 at the end the following:

15 “(l) AUTHORITY TO PROVIDE EMERGENCY BENE-
16 FITS.—A State that receives a grant under section 403
17 may use the grant to provide nonrecurrent short-term
18 emergency benefits, in accordance with section 104 of the
19 Security and Financial Empowerment Act, to individuals
20 who take leave pursuant to section 102 of that Act, with-
21 out regard to whether the individuals receive assistance
22 under the State program funded under this part.”.

1 **SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BEN-**
 2 **EFITS.**

3 (a) MORE PROTECTIVE LAWS, AGREEMENTS, PRO-
 4 GRAMS, AND PLANS.—Nothing in this title shall be con-
 5 strued to supersede any provision of any Federal, State,
 6 or local law, collective bargaining agreement, or employ-
 7 ment benefits program or plan that provides—

8 (1) greater leave benefits for victims of domes-
 9 tic or sexual violence than the rights established
 10 under this title; or

11 (2) leave benefits for a larger population of vic-
 12 tims of domestic or sexual violence (as defined in
 13 such law, agreement, program, or plan) than the vic-
 14 tims of domestic or sexual violence covered under
 15 this title.

16 (b) LESS PROTECTIVE LAWS, AGREEMENTS, PRO-
 17 GRAMS, AND PLANS.—The rights established for victims
 18 of domestic or sexual violence under this title shall not
 19 be diminished by any State or local law, collective bar-
 20 gaining agreement, or employment benefits program or
 21 plan.

22 **SEC. 106. CONFORMING AMENDMENT.**

23 Section 1003(a)(1) of the Rehabilitation Act Amend-
 24 ments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by
 25 inserting “title I or III of the Security and Financial Em-
 26 powerment Act,” before “or the provisions”.

1 **SEC. 107. EFFECTIVE DATE.**

2 This title and the amendment made by this title take
3 effect 180 days after the date of enactment of this Act.

4 **TITLE II—ENTITLEMENT TO UN-**
5 **EMPLOYMENT COMPENSA-**
6 **TION FOR VICTIMS OF DO-**
7 **MESTIC VIOLENCE, DATING**
8 **VIOLENCE, SEXUAL ASSAULT,**
9 **OR STALKING**

10 **SEC. 201. PURPOSES.**

11 The purposes of this title are, pursuant to the affirm-
12 ative power of Congress to enact legislation under the por-
13 tions of section 8 of article I of the Constitution relating
14 to laying and collecting taxes, providing for the general
15 welfare, and regulation of commerce among the several
16 States, and under section 5 of the 14th amendment to
17 the Constitution—

18 (1) to promote the national interest in reducing
19 domestic violence, dating violence, sexual assault,
20 and stalking by enabling victims of domestic or sex-
21 ual violence to maintain the financial independence
22 necessary to leave abusive situations, achieve safety,
23 and minimize the physical and emotional injuries
24 from domestic or sexual violence, and to reduce the
25 devastating economic consequences of domestic or
26 sexual violence to employers and employees;

1 (2) to promote the national interest in ensuring
2 that victims of domestic or sexual violence can re-
3 cover from and cope with the effects of such victim-
4 ization and participate in the criminal and civil jus-
5 tice processes without fear of adverse economic con-
6 sequences;

7 (3) to minimize the negative impact on inter-
8 state commerce from dislocations of employees and
9 harmful effects on productivity, loss of employment,
10 health care costs, and employer costs, caused by do-
11 mestic or sexual violence including intentional efforts
12 to frustrate the ability of women to participate in
13 employment and interstate commerce;

14 (4) to promote the purposes of the 14th amend-
15 ment to the Constitution by preventing sex-based
16 discrimination and discrimination against victims of
17 domestic and sexual violence in unemployment insur-
18 ance, by addressing the failure of existing laws to
19 protect the employment rights of victims of domestic
20 or sexual violence, by protecting their civil and eco-
21 nomic rights, and by furthering the equal oppor-
22 tunity of women for economic self-sufficiency and
23 employment free from discrimination; and

24 (5) to accomplish the purposes described in
25 paragraphs (1) through (4) by providing unemploy-

1 ment insurance to those who are separated from
2 their employment as a result of domestic or sexual
3 violence, in a manner that accommodates the legiti-
4 mate interests of employers and protects the safety
5 of all persons in the workplace.

6 **SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING**
7 **PROVISIONS.**

8 (a) UNEMPLOYMENT COMPENSATION.—Section 3304
9 of the Internal Revenue Code of 1986 (relating to approval
10 of State unemployment compensation laws) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (18), by striking “and”
13 at the end;

14 (B) by redesignating paragraph (19) as
15 paragraph (20); and

16 (C) by inserting after paragraph (18) the
17 following new paragraph:

18 “(19) compensation shall not be denied where
19 an individual is separated from employment due to
20 circumstances resulting from the individual’s experi-
21 ence of domestic or sexual violence; and”; and

22 (2) by adding at the end the following new sub-
23 section:

24 “(g) CONSTRUCTION.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (a)(19), an individual’s separation from employment
3 shall be treated as due to circumstances resulting
4 from the individual’s experience of domestic or sex-
5 ual violence if the separation resulted from—

6 “(A) the individual’s reasonable fear of fu-
7 ture domestic or sexual violence at or en route
8 to or from the individual’s place of employment;

9 “(B) the individual’s wish to relocate in
10 order to avoid future domestic or sexual vio-
11 lence against the individual or the individual’s
12 family or household member (as such term is
13 defined in section 3 of the Security and Finan-
14 cial Empowerment Act);

15 “(C) the individual’s need to obtain treat-
16 ment to address the physical, psychological, or
17 legal effects of domestic or sexual violence on
18 the individual or the individual’s family or
19 household member (as such term is defined in
20 section 3 of the Security and Financial Em-
21 powerment Act);

22 “(D) the employer’s denial of the individ-
23 ual’s request for leave from employment to ad-
24 dress domestic or sexual violence and its effects
25 on the individual or the individual’s family or

1 household member (as such term is defined in
2 section 3 of the Security and Financial Em-
3 powerment Act), including leave authorized by
4 section 102 of the Family and Medical Leave
5 Act of 1993 or by title I of the Security and Fi-
6 nancial Empowerment Act;

7 “(E) the employer’s termination of the in-
8 dividual’s employment due to actions, including
9 absences, taken by the individual that were nec-
10 essary to protect the individual or the individ-
11 ual’s family or household member (as such term
12 is defined in section 3 of the Security and Fi-
13 nancial Empowerment Act) from domestic or
14 sexual violence;

15 “(F) the employer’s termination of the in-
16 dividual due to circumstances resulting from
17 the individual’s being, or being perceived to be,
18 a victim of domestic or sexual violence; or

19 “(G) any other circumstance in which do-
20 mestic or sexual violence causes the individual
21 to reasonably believe that separation from em-
22 ployment is necessary for the future safety of
23 the individual or the individual’s family or
24 household member (as such term is defined in

1 section 3 of the Security and Financial Em-
2 powerment Act).

3 “(2) REASONABLE EFFORTS TO RETAIN EM-
4 PLOYMENT.—For purposes of subsection (a)(19), if
5 State law requires the individual to have made rea-
6 sonable efforts to retain employment as a condition
7 for receiving unemployment compensation, such re-
8 quirement shall be met if the individual—

9 “(A) sought protection from, or assistance
10 in responding to, domestic or sexual violence,
11 including calling the police, obtaining services
12 from a victim services organization (as defined
13 in section 3 of the Security and Financial Em-
14 powerment Act), or seeking legal, social work,
15 medical, clerical, or other assistance;

16 “(B) sought safety, including refuge in a
17 shelter or temporary or permanent relocation,
18 whether or not the individual actually obtained
19 such refuge or accomplished such relocation; or

20 “(C) reasonably believed that options such
21 as taking a leave of absence, transferring jobs,
22 or receiving an alternative work schedule would
23 not be sufficient to guarantee the safety of the
24 individual or the individual’s family or house-
25 hold member (as such term is defined in section

1 3 of the Security and Financial Empowerment
2 Act).

3 “(3) ACTIVE SEARCH FOR EMPLOYMENT.—For
4 purposes of subsection (a)(19), if State law requires
5 the individual to actively search for employment
6 after separation from employment as a condition for
7 receiving unemployment compensation—

8 “(A) such requirement shall be treated as
9 met where the individual registers for work (the
10 individual is not otherwise required to seek em-
11 ployment on a weekly basis); and

12 “(B) such law may not categorize an em-
13 ployment opportunity as suitable work for the
14 individual unless such employment opportunity
15 reasonably accommodates the individual’s need
16 to address the physical, psychological, legal, and
17 other effects of domestic or sexual violence.

18 “(4) PROVISION OF INFORMATION TO MEET
19 CERTAIN REQUIREMENTS.—

20 “(A) IN GENERAL.—In determining if an
21 individual meets the requirements of para-
22 graphs (1), (2), and (3), the unemployment
23 agency of the State in which an individual is re-
24 questing unemployment compensation by reason
25 of subsection (a)(19) may require the individual

1 to provide certification that the separation from
2 employment was due to circumstances resulting
3 from the individual's, or the individual's family
4 or household member's (as such term is defined
5 in section 3 of the Security and Financial Em-
6 powerment Act), experience of domestic or sex-
7 ual violence.

8 “(B) SATISFACTION OF CERTIFICATION
9 REQUIREMENT.—An individual may satisfy the
10 certification requirement of subparagraph (A)
11 by providing to the unemployment agency—

12 “(i) a sworn statement of the indi-
13 vidual;

14 “(ii) documentation from an em-
15 ployee, agent, or volunteer of a victim serv-
16 ices organization (as defined in section 3 of
17 the Security and Financial Empowerment
18 Act), an attorney, a member of the clergy,
19 or a medical or other professional, from
20 whom the individual or the individual's
21 family or household member (as such term
22 is defined in section 3 of the Security and
23 Financial Empowerment Act) has sought
24 assistance in addressing domestic or sexual
25 violence and the effects of that violence;

1 “(iii) a police or court record; or

2 “(iv) other corroborating evidence.

3 “(C) CONFIDENTIALITY.—All information
4 provided to the unemployment agency pursuant
5 to this paragraph, including a statement of an
6 individual or any other documentation, record,
7 or corroborating evidence, and the fact that an
8 individual has applied for, inquired about, or
9 obtained unemployment compensation available
10 by reason of subsection (a)(19) shall be re-
11 tained in the strictest confidence by the individ-
12 ual’s former or current employer and the unem-
13 ployment agency, except to the extent that dis-
14 closure is—

15 “(i) requested or consented to by the
16 individual in writing; or

17 “(ii) otherwise required by applicable
18 Federal or State law.”.

19 (b) UNEMPLOYMENT COMPENSATION PERSONNEL
20 TRAINING.—Section 303(a) of the Social Security Act (42
21 U.S.C. 503(a)) is amended—

22 (1) by redesignating paragraphs (4) through
23 (10) as paragraphs (5) through (11), respectively;
24 and

1 (2) by inserting after paragraph (3) the fol-
2 lowing new paragraph:

3 “(4) Such methods of administration as will en-
4 sure that—

5 “(A) applicants for unemployment com-
6 pensation and individuals inquiring about such
7 compensation are adequately notified of the
8 provisions of subsections (a)(19) and (g) of sec-
9 tion 3304 of the Internal Revenue Code of 1986
10 (relating to the availability of unemployment
11 compensation for victims of domestic or sexual
12 violence); and

13 “(B) claims reviewers and hearing per-
14 sonnel are adequately trained in—

15 “(i) the nature and dynamics of do-
16 mestic or sexual violence (as defined in
17 section 3306(u) of the Internal Revenue
18 Code of 1986); and

19 “(ii) methods of ascertaining and
20 keeping confidential information about pos-
21 sible experiences of domestic or sexual vio-
22 lence (as so defined) to ensure that—

23 “(I) requests for unemployment
24 compensation based on separations
25 stemming from such violence are reli-

1 ably screened, identified, and adju-
2 dicated; and

3 “(II) full confidentiality is pro-
4 vided for the individual’s claim and
5 submitted evidence; and”.

6 (c) TANF PERSONNEL TRAINING.—Section 402(a)
7 of the Social Security Act (42 U.S.C. 602(a)) is amended
8 by adding at the end the following new paragraph:

9 “(8) CERTIFICATION THAT THE STATE WILL
10 PROVIDE INFORMATION TO VICTIMS OF DOMESTIC
11 AND SEXUAL VIOLENCE.—A certification by the
12 chief officer of the State that the State has estab-
13 lished and is enforcing standards and procedures
14 to—

15 “(A) ensure that applicants for assistance
16 under the program and individuals inquiring
17 about such assistance are adequately notified
18 of—

19 “(i) the provisions of subsections
20 (a)(19) and (g) of section 3304 of the In-
21 ternal Revenue Code of 1986 (relating to
22 the availability of unemployment com-
23 pensation for victims of domestic or sexual
24 violence); and

1 “(ii) assistance made available by the
2 State to victims of domestic or sexual vio-
3 lence;

4 “(B) ensure that case workers and other
5 agency personnel responsible for administering
6 the State program funded under this part are
7 adequately trained in—

8 “(i) the nature and dynamics of do-
9 mestic or sexual violence (as defined in
10 section 3306(u) of the Internal Revenue
11 Code of 1986);

12 “(ii) State standards and procedures
13 relating to the prevention of, and assist-
14 ance for individuals who experience, do-
15 mestic or sexual violence (as so defined);
16 and

17 “(iii) methods of ascertaining and
18 keeping confidential information about pos-
19 sible experiences of domestic or sexual vio-
20 lence (as so defined);

21 “(C) if a State has elected to establish and
22 enforce standards and procedures regarding the
23 screening for and identification of domestic vio-
24 lence pursuant to paragraph (7), ensure that—

1 “(i) applicants for assistance under
2 the program and individuals inquiring
3 about such assistance are adequately noti-
4 fied of options available under such stand-
5 ards and procedures; and

6 “(ii) case workers and other agency
7 personnel responsible for administering the
8 State program funded under this part are
9 provided with adequate training regarding
10 such standards and procedures and options
11 available under such standards and proce-
12 dures; and

13 “(D) ensure that the training required
14 under subparagraphs (B) and, if applicable,
15 (C)(ii) is provided through a training program
16 operated by an eligible entity (as defined in sec-
17 tion 202(d)(2) of the Security and Financial
18 Empowerment Act).”.

19 (d) DOMESTIC AND SEXUAL VIOLENCE TRAINING
20 GRANT PROGRAM.—

21 (1) GRANTS AUTHORIZED.—The Secretary of
22 Health and Human Services (in this subsection re-
23 ferred to as the “Secretary”) is authorized to
24 award—

1 (A) a grant to a national victim services
2 organization in order for such organization to—

3 (i) develop and disseminate a model
4 training program (and related materials)
5 for the training required under section
6 303(a)(4)(B) of the Social Security Act
7 (42 U.S.C. 503(a)(4)(B)), as added by
8 subsection (b), and under subparagraphs
9 (B) and, if applicable, (C)(ii) of section
10 402(a)(8) of the such Act (42 U.S.C.
11 602(a)(8)), as added by subsection (c); and

12 (ii) provide technical assistance with
13 respect to such model training program;
14 and

15 (B) grants to State, tribal, or local agen-
16 cies in order for such agencies to contract with
17 eligible entities to provide State, tribal, or local
18 case workers and other State, tribal, or local
19 agency personnel responsible for administering
20 the temporary assistance to needy families pro-
21 gram established under part A of title IV of the
22 Social Security Act in a State or Indian res-
23 ervation with the training required under sub-
24 paragraphs (B) and, if applicable, (C)(ii) of
25 such section 402(a)(8).

1 (2) ELIGIBLE ENTITY DEFINED.—For purposes
2 of paragraph (1)(B), the term “eligible entity”
3 means an entity—

4 (A) that is—

5 (i) a State or tribal domestic violence
6 coalition or sexual assault coalition;

7 (ii) a State or local victim services or-
8 ganization with recognized expertise in the
9 dynamics of domestic or sexual violence
10 whose primary mission is to provide serv-
11 ices to victims of domestic or sexual vio-
12 lence, such as a rape crisis center or do-
13 mestic violence program; or

14 (iii) an organization with dem-
15 onstrated expertise in State or county wel-
16 fare laws and implementation of such laws
17 and experience with disseminating informa-
18 tion on such laws and implementation, but
19 only if such organization will provide the
20 required training in partnership with an
21 entity described in clause (i) or (ii); and

22 (B) that—

23 (i) has demonstrated expertise in both
24 domestic and sexual assault, such as a

1 joint domestic violence and sexual assault
2 coalition; or

3 (ii) will provide the required training
4 in partnership with an entity described in
5 clause (i) or (ii) of subparagraph (A) in
6 order to comply with the dual domestic vio-
7 lence and sexual assault expertise require-
8 ment under clause (i).

9 (3) APPLICATION.—An entity seeking a grant
10 under this subsection shall submit an application to
11 the Secretary at such time, in such form and man-
12 ner, and containing such information as the Sec-
13 retary specifies.

14 (4) REPORTS.—

15 (A) REPORTS TO CONGRESS.—The Sec-
16 retary shall annually submit a report to Con-
17 gress on the grant program established under
18 this subsection.

19 (B) REPORTS AVAILABLE TO PUBLIC.—
20 The Secretary shall establish procedures for the
21 dissemination to the public of each report sub-
22 mitted under subparagraph (A). Such proce-
23 dures shall include the use of the Internet to
24 disseminate such reports.

25 (5) AUTHORIZATION OF APPROPRIATIONS.—

1 (A) AUTHORIZATION.—There are author-
2 ized to be appropriated—

3 (i) \$1,000,000 for fiscal year 2004 to
4 carry out the provisions of paragraph
5 (1)(A); and

6 (ii) \$12,000,000 for each of fiscal
7 years 2005 through 2007 to carry out the
8 provisions of paragraph (1)(B).

9 (B) THREE-YEAR AVAILABILITY OF GRANT
10 FUNDS.—Each recipient of a grant under this
11 subsection shall return to the Secretary of
12 Health and Human Services any unused por-
13 tion of such grant not later than 3 years after
14 the date the grant was awarded, together with
15 any earnings on such unused portion.

16 (C) AMOUNTS RETURNED.—Any amounts
17 returned pursuant to subparagraph (B) shall be
18 available without further appropriation to the
19 Secretary of Health and Human Services for
20 the purpose of carrying out the provisions of
21 paragraph (1)(B).

22 (e) DEFINITION OF DOMESTIC OR SEXUAL VIO-
23 LENCE.—Section 3306 of the Internal Revenue Code of
24 1986 (relating to definitions) is amended by adding at the
25 end the following:

1 “(u) DOMESTIC OR SEXUAL VIOLENCE.—For pur-
2 poses of this chapter, the term ‘domestic or sexual vio-
3 lence’ means domestic violence, dating violence, sexual as-
4 sault, or stalking, as those terms are defined in section
5 3 of the Security and Financial Empowerment Act.”.

6 (f) EFFECTIVE DATE.—

7 (1) UNEMPLOYMENT AMENDMENTS.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B) and paragraph (2), the
10 amendments made by this section shall apply in
11 the case of compensation paid for weeks begin-
12 ning on or after the expiration of 180 days
13 from the date of enactment of this Act.

14 (B) EXTENSION OF EFFECTIVE DATE FOR
15 STATE LAW AMENDMENT.—

16 (i) IN GENERAL.—If the Secretary of
17 Labor identifies a State as requiring a
18 change to its statutes or regulations in
19 order to comply with the amendments
20 made by this section (excluding the amend-
21 ment made by subsection (c)), such
22 amendments shall apply in the case of
23 compensation paid for weeks beginning
24 after the earlier of—

1 (I) the date the State changes its
2 statutes or regulations in order to
3 comply with such amendments; or

4 (II) the end of the first session of
5 the State legislature which begins
6 after the date of enactment of this
7 Act or which began prior to such date
8 and remained in session for at least
9 25 calendar days after such date;

10 except that in no case shall such amend-
11 ments apply before the date that is 180
12 days after the date of enactment of this
13 Act.

14 (ii) SESSION DEFINED.—In this sub-
15 paragraph, the term “session” means a
16 regular, special, budget, or other session of
17 a State legislature.

18 (2) TANF AMENDMENT.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), the amendment made by
21 subsection (c) shall take effect on the date of
22 enactment of this Act.

23 (B) EXTENSION OF EFFECTIVE DATE FOR
24 STATE LAW AMENDMENT.—In the case of a
25 State plan under part A of title IV of the Social

1 Security Act which the Secretary of Health and
 2 Human Services determines requires State leg-
 3 islation in order for the plan to meet the addi-
 4 tional requirements imposed by the amendment
 5 made by subsection (c), the State plan shall not
 6 be regarded as failing to comply with the re-
 7 quirements of such amendment on the basis of
 8 its failure to meet these additional requirements
 9 before the first day of the first calendar quarter
 10 beginning after the close of the first regular
 11 session of the State legislature that begins after
 12 the date of enactment of this Act. For purposes
 13 of the previous sentence, in the case of a State
 14 that has a 2-year legislative session, each year
 15 of the session is considered to be a separate
 16 regular session of the State legislature.

17 **TITLE III—VICTIMS’**
 18 **EMPLOYMENT SUSTAINABILITY**

19 **SEC. 301. SHORT TITLE.**

20 This title may be cited as the “Victims’ Employment
 21 Sustainability Act”.

22 **SEC. 302. PURPOSES.**

23 The purposes of this title are, pursuant to the affirm-
 24 ative power of Congress to enact legislation under the por-
 25 tions of section 8 of article I of the Constitution relating

1 to providing for the general welfare and to regulation of
2 commerce among the several States, and under section 5
3 of the 14th amendment to the Constitution—

4 (1) to promote the national interest in reducing
5 domestic violence, dating violence, sexual assault,
6 and stalking by enabling victims of domestic or sexual
7 violence to maintain the financial independence
8 necessary to leave abusive situations, achieve safety,
9 and minimize the physical and emotional injuries
10 from domestic or sexual violence, and to reduce the
11 devastating economic consequences of domestic or
12 sexual violence to employers and employees;

13 (2) to promote the national interest in ensuring
14 that victims of domestic or sexual violence can re-
15 cover from and cope with the effects of such vio-
16 lence, and participate in criminal and civil justice
17 processes, without fear of adverse economic con-
18 sequences from their employers;

19 (3) to ensure that victims of domestic or sexual
20 violence can recover from and cope with the effects
21 of such violence, and participate in criminal and civil
22 justice processes, without fear of adverse economic
23 consequences with respect to public benefits;

24 (4) to promote the purposes of the 14th amend-
25 ment to the Constitution by preventing sex-based

1 discrimination and discrimination against victims of
2 domestic and sexual violence in employment, by ad-
3 dressing the failure of existing laws to protect the
4 employment rights of victims of domestic or sexual
5 violence, by protecting the civil and economic rights
6 of victims of domestic or sexual violence, and by fur-
7 thering the equal opportunity of women for economic
8 self-sufficiency and employment free from discrimi-
9 nation;

10 (5) to minimize the negative impact on inter-
11 state commerce from dislocations of employees and
12 harmful effects on productivity, employment, health
13 care costs, and employer costs, caused by domestic
14 or sexual violence, including intentional efforts to
15 frustrate women's ability to participate in employ-
16 ment and interstate commerce; and

17 (6) to accomplish the purposes described in
18 paragraphs (1) through (5) by prohibiting employers
19 from discriminating against actual or perceived vic-
20 tims of domestic or sexual violence, in a manner that
21 accommodates the legitimate interests of employers
22 and protects the safety of all persons in the work-
23 place.

1 **SEC. 303. PROHIBITED DISCRIMINATORY ACTS.**

2 (a) IN GENERAL.—An employer shall not fail to hire,
3 refuse to hire, discharge, or harass any individual, or oth-
4 erwise discriminate against any individual with respect to
5 the compensation, terms, conditions, or privileges of em-
6 ployment of the individual (including retaliation in any
7 form or manner), and a public agency shall not deny, re-
8 duce, or terminate the benefits of, otherwise sanction, or
9 harass any individual, or otherwise discriminate against
10 any individual with respect to the amount, terms, or condi-
11 tions of public assistance of the individual (including retal-
12 iation in any form or manner), because—

13 (1) the individual involved—

14 (A) is or is perceived to be a victim of do-
15 mestic or sexual violence;

16 (B) attended, participated in, prepared for,
17 or requested leave to attend, participate in, or
18 prepare for, a criminal or civil court proceeding
19 relating to an incident of domestic or sexual vi-
20 olence of which the individual, or the family or
21 household member of the individual, was a vic-
22 tim; or

23 (C) requested an adjustment to a job
24 structure, workplace facility, or work require-
25 ment, including a transfer, reassignment, or
26 modified schedule, leave, a changed telephone

1 number or seating assignment, installation of a
2 lock, or implementation of a safety procedure,
3 in response to actual or threatened domestic or
4 sexual violence, regardless of whether the re-
5 quest was granted; or

6 (2) the workplace is disrupted or threatened by
7 the action of a person whom the individual states
8 has committed or threatened to commit domestic or
9 sexual violence against the individual, or the individ-
10 ual's family or household member.

11 (b) DEFINITIONS.—In this section:

12 (1) DISCRIMINATE.—The term “discriminate”,
13 used with respect to the terms, conditions, or privi-
14 leges of employment or with respect to the terms or
15 conditions of public assistance, includes not making
16 a reasonable accommodation to the known limita-
17 tions of an otherwise qualified individual—

18 (A) who is a victim of domestic or sexual
19 violence;

20 (B) who is—

21 (i) an applicant or employee of the
22 employer (including a public agency); or

23 (ii) an applicant for or recipient of
24 public assistance from the public agency;

25 and

1 (C) whose limitations resulted from cir-
2 cumstances relating to being a victim of domes-
3 tic or sexual violence;
4 unless the employer or public agency can dem-
5 onstrate that the accommodation would impose an
6 undue hardship on the operation of the employer or
7 public agency.

8 (2) QUALIFIED INDIVIDUAL.—The term “quali-
9 fied individual” means—

10 (A) in the case of an applicant or employee
11 described in paragraph (1)(B)(i), an individual
12 who, with or without reasonable accommoda-
13 tion, can perform the essential functions of the
14 employment position that such individual holds
15 or desires; or

16 (B) in the case of an applicant or recipient
17 described in paragraph (1)(B)(ii), an individual
18 who, with or without reasonable accommoda-
19 tion, can satisfy the essential requirements of
20 the program providing the public assistance
21 that the individual receives or desires.

22 (3) REASONABLE ACCOMMODATION.—The term
23 “reasonable accommodation” may include an adjust-
24 ment to a job structure, workplace facility, or work
25 requirement, including a transfer, reassignment, or

1 modified schedule, leave, a changed telephone num-
2 ber or seating assignment, installation of a lock, or
3 implementation of a safety procedure, in response to
4 actual or threatened domestic or sexual violence.

5 (4) UNDUE HARDSHIP.—

6 (A) IN GENERAL.—The term “undue hard-
7 ship” means an action requiring significant dif-
8 ficulty or expense, when considered in light of
9 the factors set forth in subparagraph (B).

10 (B) FACTORS TO BE CONSIDERED.—In de-
11 termining whether a reasonable accommodation
12 would impose an undue hardship on the oper-
13 ation of an employer or public agency, factors
14 to be considered include—

15 (i) the nature and cost of the reason-
16 able accommodation needed under this sec-
17 tion;

18 (ii) the overall financial resources of
19 the facility involved in the provision of the
20 reasonable accommodation, the number of
21 persons employed at such facility, the ef-
22 fect on expenses and resources, or the im-
23 pact otherwise of such accommodation on
24 the operation of the facility;

1 (iii) the overall financial resources of
2 the employer or public agency, the overall
3 size of the business of an employer or pub-
4 lic agency with respect to the number of
5 employees of the employer or public agen-
6 cy, and the number, type, and location of
7 the facilities of an employer or public agen-
8 cy; and

9 (iv) the type of operation of the em-
10 ployer or public agency, including the com-
11 position, structure, and functions of the
12 workforce of the employer or public agen-
13 cy, the geographic separateness of the fa-
14 cility from the employer or public agency,
15 and the administrative or fiscal relation-
16 ship of the facility to the employer or pub-
17 lic agency.

18 **SEC. 304. ENFORCEMENT.**

19 (a) CIVIL ACTION BY INDIVIDUALS.—

20 (1) LIABILITY.—Any employer or public agency
21 that violates section 303 shall be liable to any indi-
22 vidual affected for—

23 (A) damages equal to the amount of
24 wages, salary, employment benefits, public as-
25 sistance, or other compensation denied or lost

1 to such individual by reason of the violation,
2 and the interest on that amount calculated at
3 the prevailing rate;

4 (B) compensatory damages, including dam-
5 ages for future pecuniary losses, emotional
6 pain, suffering, inconvenience, mental anguish,
7 loss of enjoyment or life, and other nonpecu-
8 niary losses;

9 (C) such punitive damages, up to 3 times
10 the amount of actual damages sustained, as the
11 court described in paragraph (2) shall deter-
12 mine to be appropriate; and

13 (D) such equitable relief as may be appro-
14 priate, including employment, reinstatement,
15 and promotion.

16 (2) RIGHT OF ACTION.—An action to recover
17 the damages or equitable relief prescribed in para-
18 graph (1) may be maintained against any employer
19 or public agency in any Federal or State court of
20 competent jurisdiction by any 1 or more individuals
21 described in section 303.

22 (b) ACTION BY DEPARTMENT OF JUSTICE.—The At-
23 torney General may bring a civil action in any Federal
24 or State court of competent jurisdiction to recover the
25 damages or equitable relief described in subsection (a)(1).

1 **SEC. 305. ATTORNEY'S FEES.**

2 Section 722(b) of the Revised Statutes (42 U.S.C.
3 1988(b)) is amended by inserting “the Victims’ Employ-
4 ment Sustainability Act,” after “title VI of the Civil
5 Rights Act of 1964,”.

6 **TITLE IV—VICTIMS OF ABUSE**
7 **INSURANCE PROTECTION**

8 **SEC. 401. SHORT TITLE.**

9 This title may be cited as the “Victims of Abuse In-
10 surance Protection Act”.

11 **SEC. 402. DEFINITIONS.**

12 In this title:

13 (1) ABUSE.—The term “abuse” means the oc-
14 currence of 1 or more of the following acts by a cur-
15 rent or former household or family member, intimate
16 partner, or caretaker:

17 (A) Attempting to cause or causing an-
18 other person bodily injury, physical harm, sub-
19 stantial emotional distress, psychological trau-
20 ma, rape, sexual assault, or involuntary sexual
21 intercourse.

22 (B) Engaging in a course of conduct or re-
23 peatedly committing acts toward another per-
24 son, including following the person without
25 proper authority and under circumstances that

1 place the person in reasonable fear of bodily in-
2 jury or physical harm.

3 (C) Subjecting another person to false im-
4 prisonment or kidnapping.

5 (D) Attempting to cause or causing dam-
6 age to property so as to intimidate or attempt
7 to control the behavior of another person.

8 (2) HEALTH CARRIER.—The term “health car-
9 rier” means a person that contracts or offers to con-
10 tract on a risk-assuming basis to provide, deliver, ar-
11 range for, pay for, or reimburse any of the cost of
12 health care services, including a sickness and acci-
13 dent insurance company, a health maintenance orga-
14 nization, a nonprofit hospital and health service cor-
15 poration or any other entity providing a plan of
16 health insurance, health benefits or health services.

17 (3) INSURED.—The term “insured” means a
18 party named on a policy, certificate, or health ben-
19 efit plan, including an individual, corporation, part-
20 nership, association, unincorporated organization, or
21 any similar entity, as the person with legal rights to
22 the benefits provided by the policy, certificate, or
23 health benefit plan. For group insurance, such term
24 includes a person who is a beneficiary covered by a
25 group policy, certificate, or health benefit plan. For

1 life insurance, the term refers to the person whose
2 life is covered under an insurance policy.

3 (4) INSURER.—The term “insurer” means any
4 person, reciprocal exchange, inter insurer, Lloyds in-
5 surer, fraternal benefit society, or other legal entity
6 engaged in the business of insurance, including
7 agents, brokers, adjusters, and third-party adminis-
8 trators; and employers who provide or make avail-
9 able employment benefits through an employee ben-
10 efit plan, as defined in section 3(3) of the Employee
11 Retirement Income Security Act of 1974 (29 U.S.C.
12 102(3)). The term also includes health carriers,
13 health benefit plans, and life, disability, and prop-
14 erty and casualty insurers.

15 (5) POLICY.—The term “policy” means a con-
16 tract of insurance, certificate, indemnity, suretyship,
17 or annuity issued, proposed for issuance or intended
18 for issuance by an insurer, including endorsements
19 or riders to an insurance policy or contract.

20 (6) SUBJECT OF ABUSE.—The term “subject of
21 abuse” means—

22 (A) a person against whom an act of abuse
23 has been directed;

1 (B) a person who has prior or current in-
2 juries, illnesses, or disorders that resulted from
3 abuse; or

4 (C) a person who seeks, may have sought,
5 or had reason to seek medical or psychological
6 treatment for abuse, protection, court-ordered
7 protection, or shelter from abuse.

8 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

9 (a) IN GENERAL.—No insurer may, directly or indi-
10 rectly, engage in any of the following acts or practices on
11 the basis that the applicant or insured, or any person em-
12 ployed by the applicant or insured or with whom the appli-
13 cant or insured is known to have a relationship or associa-
14 tion, is, has been, or may be the subject of abuse or has
15 incurred or may incur abuse-related claims:

16 (1) Denying, refusing to issue, renew or reissue,
17 or canceling or otherwise terminating an insurance
18 policy or health benefit plan.

19 (2) Restricting, excluding, or limiting insurance
20 coverage for losses or denying a claim, except as oth-
21 erwise permitted or required by State laws relating
22 to life insurance beneficiaries.

23 (3) Adding a premium differential to any insur-
24 ance policy or health benefit plan.

1 (b) PROHIBITION ON LIMITATION OF CLAIMS.—No
2 insurer may, directly or indirectly, deny or limit payment
3 of a claim incurred by an innocent insured as a result of
4 abuse.

5 (c) PROHIBITION ON TERMINATION.—

6 (1) IN GENERAL.—No insurer or health carrier
7 may terminate health coverage for a subject of abuse
8 because coverage was originally issued in the name
9 of the abuser and the abuser has divorced, separated
10 from, or lost custody of the subject of abuse or the
11 abuser's coverage has terminated voluntarily or in-
12 voluntarily and the subject of abuse does not qualify
13 for an extension of coverage under part 6 of subtitle
14 B of title I of the Employee Retirement Income Se-
15 curity Act of 1974 (29 U.S.C. 1161 et seq.) or sec-
16 tion 4980B of the Internal Revenue Code of 1986.

17 (2) PAYMENT OF PREMIUMS.—Nothing in para-
18 graph (1) shall be construed to prohibit the insurer
19 from requiring that the subject of abuse pay the full
20 premium for the subject's coverage under the health
21 plan if the requirements are applied to all insured of
22 the health carrier.

23 (3) EXCEPTION.—An insurer may terminate
24 group coverage to which this subsection applies after
25 the continuation coverage period required by this

1 subsection has been in force for 18 months if it of-
2 fers conversion to an equivalent individual plan.

3 (4) CONTINUATION COVERAGE.—The continu-
4 ation of health coverage required by this subsection
5 shall be satisfied by any extension of coverage under
6 part 6 of subtitle B of title I of the Employee Re-
7 tirement Income Security Act of 1974 (29 U.S.C.
8 1161 et seq.) or section 4980B of the Internal Rev-
9 enue Code of 1986 provided to a subject of abuse
10 and is not intended to be in addition to any exten-
11 sion of coverage otherwise provided for under such
12 part 6 or section 4980B.

13 (d) USE OF INFORMATION.—

14 (1) LIMITATION.—

15 (A) IN GENERAL.—In order to protect the
16 safety and privacy of subjects of abuse, no per-
17 son employed by or contracting with an insurer
18 or health benefit plan may—

19 (i) use, disclose, or transfer informa-
20 tion relating to abuse status, acts of abuse,
21 abuse-related medical conditions or the ap-
22 plicant's or insured's status as a family
23 member, employer, associate, or person in
24 a relationship with a subject of abuse for
25 any purpose unrelated to the direct provi-

1 sion of health care services unless such
2 use, disclosure, or transfer is required by
3 an order of an entity with authority to reg-
4 ulate insurance or an order of a court of
5 competent jurisdiction; or

6 (ii) disclose or transfer information
7 relating to an applicant's or insured's mail-
8 ing address or telephone number or the
9 mailing address and telephone number of a
10 shelter for subjects of abuse, unless such
11 disclosure or transfer—

12 (I) is required in order to provide
13 insurance coverage; and

14 (II) does not have the potential
15 to endanger the safety of a subject of
16 abuse.

17 (B) RULE OF CONSTRUCTION.—Nothing in
18 this paragraph may be construed to limit or
19 preclude a subject of abuse from obtaining the
20 subject's own insurance records from an in-
21 surer.

22 (2) AUTHORITY OF SUBJECT OF ABUSE.—A
23 subject of abuse, at the absolute discretion of the
24 subject of abuse, may provide evidence of abuse to
25 an insurer for the limited purpose of facilitating

1 treatment of an abuse-related condition or dem-
2 onstrating that a condition is abuse-related. Nothing
3 in this paragraph shall be construed as authorizing
4 an insurer or health carrier to disregard such pro-
5 vided evidence.

6 **SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF**
7 **ABUSE.**

8 Insurers shall develop and adhere to written policies
9 specifying procedures to be followed by employees, con-
10 tractors, producers, agents, and brokers for the purpose
11 of protecting the safety and privacy of a subject of abuse
12 and otherwise implementing this title when taking an ap-
13 plication, investigating a claim, or taking any other action
14 relating to a policy or claim involving a subject of abuse.

15 **SEC. 405. REASONS FOR ADVERSE ACTIONS.**

16 An insurer that takes an action that adversely affects
17 a subject of abuse, shall advise the subject of abuse appli-
18 cant or insured of the specific reasons for the action in
19 writing. For purposes of this section, reference to general
20 underwriting practices or guidelines shall not constitute
21 a specific reason.

22 **SEC. 406. LIFE INSURANCE.**

23 Nothing in this title shall be construed to prohibit
24 a life insurer from declining to issue a life insurance policy
25 if the applicant or prospective owner of the policy is or

1 would be designated as a beneficiary of the policy, and
2 if—

3 (1) the applicant or prospective owner of the
4 policy lacks an insurable interest in the insured; or

5 (2) the applicant or prospective owner of the
6 policy is known, on the basis of police or court
7 records, to have committed an act of abuse against
8 the proposed insured.

9 **SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.**

10 Subrogation of claims resulting from abuse is prohib-
11 ited without the informed consent of the subject of abuse.

12 **SEC. 408. ENFORCEMENT.**

13 (a) FEDERAL TRADE COMMISSION.—

14 (1) IN GENERAL.—The Federal Trade Commis-
15 sion shall have the power to examine and investigate
16 any insurer to determine whether such insurer has
17 been or is engaged in any act or practice prohibited
18 by this title.

19 (2) CEASE AND DESIST ORDERS.—If the Fed-
20 eral Trade Commission determines an insurer has
21 been or is engaged in any act or practice prohibited
22 by this title, the Commission may take action
23 against such insurer by the issuance of a cease and
24 desist order as if the insurer was in violation of sec-
25 tion 5 of the Federal Trade Commission Act. Such

1 cease and desist order may include any individual re-
2 lief warranted under the circumstances, including
3 temporary, preliminary, and permanent injunctive
4 and compensatory relief.

5 (b) PRIVATE CAUSE OF ACTION.—

6 (1) IN GENERAL.—An applicant or insured who
7 believes that the applicant or insured has been ad-
8 versely affected by an act or practice of an insurer
9 in violation of this title may maintain an action
10 against the insurer in a Federal or State court of
11 original jurisdiction.

12 (2) RELIEF.—Upon proof of such conduct by a
13 preponderance of the evidence in an action described
14 in paragraph (1), the court may award appropriate
15 relief, including temporary, preliminary, and perma-
16 nent injunctive relief and compensatory and punitive
17 damages, as well as the costs of suit and reasonable
18 fees for the aggrieved individual's attorneys and ex-
19 pert witnesses.

20 (3) STATUTORY DAMAGES.—With respect to
21 compensatory damages in an action described in
22 paragraph (1), the aggrieved individual may elect, at
23 any time prior to the rendering of final judgment, to
24 recover in lieu of actual damages, an award of statu-

1 tory damages in the amount of \$5,000 for each vio-
 2 lation.

3 **SEC. 409. EFFECTIVE DATE.**

4 This title shall apply with respect to any action taken
 5 on or after the date of enactment of this Act.

6 **TITLE V—WORKPLACE SAFETY**
 7 **PROGRAM TAX CREDIT**

8 **SEC. 501. CREDIT FOR COSTS TO EMPLOYERS OF IMPE-**
 9 **MENTING WORKPLACE SAFETY PROGRAMS.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-
 11 chapter A of chapter 1 of the Internal Revenue Code of
 12 1986 (relating to business related credits) is amended by
 13 adding at the end the following:

14 **“SEC. 45G. WORKPLACE SAFETY PROGRAM CREDIT.**

15 “(a) IN GENERAL.—For purposes of section 38, the
 16 workplace safety program credit determined under this
 17 section for the taxable year is, for any employer, an
 18 amount equal to 40 percent of the domestic and sexual
 19 violence safety and education costs paid or incurred by
 20 such employer during the taxable year.

21 “(b) DEFINITIONS.—For purposes of this section—

22 “(1) DOMESTIC AND SEXUAL VIOLENCE SAFETY
 23 AND EDUCATION COST.—

24 “(A) IN GENERAL.—The term ‘domestic
 25 and sexual violence safety and education cost’

1 means any cost certified by the Secretary of
2 Labor to the Secretary as being for the purpose
3 of—

4 “(i) ensuring the safety of employees
5 from domestic or sexual violence,

6 “(ii) providing assistance to employees
7 and the spouses and dependents of employ-
8 ees with respect to domestic or sexual vio-
9 lence,

10 “(iii) providing legal or medical serv-
11 ices to employees and the spouses and de-
12 pendents of employees subjected to, or at
13 risk from, domestic or sexual violence,

14 “(iv) educating employees about the
15 issue of domestic or sexual violence, or

16 “(v) implementing human resource or
17 personnel policies initiated to protect em-
18 ployees from domestic or sexual violence or
19 to support employees who have been vic-
20 tims of domestic or sexual violence.

21 “(B) TYPES OF COSTS.—Such term in-
22 cludes costs certified by the Secretary of Labor
23 to the Secretary as being for the purpose of—

1 “(i) the hiring of new security per-
2 sonnel in order to address domestic or sex-
3 ual violence,

4 “(ii) the creation of buddy systems or
5 escort systems for walking employees to
6 parking lots, parked cars, subway stations,
7 or bus stops, in order to address domestic
8 or sexual violence,

9 “(iii) the purchase or installation of
10 new security equipment, including surveil-
11 lance equipment, lighting fixtures, cardkey
12 access systems, and identification systems,
13 in order to address domestic or sexual vio-
14 lence,

15 “(iv) the establishment of an employee
16 assistance line or other employee assist-
17 ance services, in order to address domestic
18 or sexual violence, for the use of individual
19 employees, including counseling or referral
20 services undertaken in consultation and co-
21 ordination with national, State, or local do-
22 mestic violence coalitions, sexual assault
23 coalitions, domestic violence programs, or
24 sexual assault programs,

1 “(v) the retention of an attorney to
2 provide legal services to employees seeking
3 restraining orders or other legal recourse
4 from domestic or sexual violence,

5 “(vi) the establishment of medical
6 services addressing the medical needs of
7 employees who are victims of domestic or
8 sexual violence,

9 “(vii) the retention of a financial ex-
10 pert or an accountant to provide financial
11 counseling to employees seeking to escape
12 from domestic or sexual violence,

13 “(viii) the establishment of an edu-
14 cation program for employees, consisting of
15 seminars or training sessions about domes-
16 tic or sexual violence undertaken in con-
17 sultation and coordination with national,
18 State, or local domestic violence coalitions,
19 sexual assault coalitions, domestic violence
20 programs, or sexual assault programs,

21 “(ix) studies of the cost, impact, or
22 extent of domestic or sexual violence at the
23 employer’s place of business, if such stud-
24 ies are made available to the public and

1 protect the identity of employees included
2 in the study,

3 “(x) the publication of a regularly dis-
4 seminated newsletter or other regularly
5 disseminated educational materials about
6 domestic or sexual violence,

7 “(xi) the implementation of leave poli-
8 cies for the purpose of allowing or accom-
9 modating the needs of victims of domestic
10 or sexual violence to pursue counseling,
11 legal assistance, or safety planning, includ-
12 ing leave from work to attend meetings
13 with attorneys, to give evidentiary state-
14 ments or depositions, and to attend hear-
15 ings or trials in court,

16 “(xii) the implementation of flexible
17 work policies for the purpose of allowing or
18 accommodating the needs of employees
19 who are victims of domestic or sexual vio-
20 lence, or employees at risk with respect to
21 such crimes, to avoid assailants,

22 “(xiii) the implementation of transfer
23 policies for the purpose of allowing or ac-
24 commodating the needs of employees sub-
25 jected to domestic or sexual violence to

1 change office locations within the company
2 in order to avoid assailants or to allow the
3 transfer of an employee who has per-
4 petrated domestic or sexual violence in
5 order to protect the victim, including pay-
6 ment of costs for the transfer and reloca-
7 tion of an employee to another city, coun-
8 ty, State, or country for the purpose of
9 maintaining an employee's safety from do-
10 mestic or sexual violence, or

11 “(xiv) the provision of any of the serv-
12 ices described in clauses (iv) through (viii)
13 to the spouses or dependents of employees.

14 “(C) NOTIFICATION OF POSSIBLE TAX
15 CONSEQUENCES.—In no event shall any cost for
16 goods or services which may be included in the
17 income of any employee receiving or benefiting
18 from such goods or services be treated as a do-
19 mestic and sexual violence safety and education
20 cost unless the employer notifies the employee
21 in writing of the possibility of such inclusion.

22 “(2) DOMESTIC OR SEXUAL VIOLENCE.—The
23 term ‘domestic or sexual violence’ means domestic
24 violence, dating violence, sexual assault, or stalking,

1 as those terms are defined in section 3 of the Secu-
2 rity and Financial Empowerment Act.

3 “(3) DOMESTIC VIOLENCE COALITION; SEXUAL
4 ASSAULT COALITION.—The terms ‘domestic violence
5 coalition’ and ‘sexual assault coalition’ have the
6 meanings given the terms in section 3 of the Secu-
7 rity and Financial Empowerment Act.

8 “(4) EMPLOYEE.—The term ‘employee’ means
9 a person who is an employee, as defined in section
10 3(9) of the Security and Financial Empowerment
11 Act, except that the person may be employed by any
12 employer described in paragraph (5).

13 “(5) EMPLOYER.—The term ‘employer’ means
14 a person who is an employer, as defined in section
15 3(10) of such Act, determined without regard to the
16 number of individuals employed.

17 “(c) COORDINATION WITH OTHER PROVISIONS.—No
18 credit or deduction shall be allowed under any other provi-
19 sion of this title for any amount for which a credit is al-
20 lowed under this section.”.

21 (b) TREATMENT AS GENERAL BUSINESS CREDIT.—

22 (1) IN GENERAL.—Subsection (b) of section 38
23 of the Internal Revenue Code of 1986 (relating to
24 general business credit) is amended by striking
25 “plus” at the end of paragraph (14), by striking the

1 period at the end of paragraph (15) and inserting “,
2 plus”, and by adding at the end the following:

3 “(16) the workplace safety program credit de-
4 termined under section 45G.”.

5 (2) TRANSITIONAL RULE FOR CARRYBACKS.—
6 Subsection (d) of section 39 of such Code (relating
7 to transitional rules) is amended by adding at the
8 end the following:

9 “(11) NO CARRYBACK OF SECTION 45G CREDIT
10 BEFORE EFFECTIVE DATE.—No portion of the un-
11 used business credit for any taxable year which is
12 attributable to the workplace safety program credit
13 determined under section 45G may be carried back
14 to a taxable year beginning before January 1,
15 2004.”.

16 (3) DEDUCTION FOR UNUSED CREDITS.—Sub-
17 section (c) of section 196 of such Code (relating to
18 deduction for certain unused business credits) is
19 amended by striking “and” at the end of paragraph
20 (9), by striking the period at the end of paragraph
21 (10) and inserting “, and”, and by adding at the
22 end the following:

23 “(11) the workplace safety program credit de-
24 termined under section 45G.”.

1 (c) CREDIT NOT A DEFENSE IN LEGAL ACTIONS.—

2 The allowance of a credit under section 45G of the Inter-
3 nal Revenue Code of 1986 (as added by this section) shall
4 not absolve employers of their responsibilities under any
5 other law and shall not be construed as a defense to any
6 legal action (other than legal action by the Secretary of
7 the Treasury under such Code).

8 (d) CLERICAL AMENDMENT.—The table of sections
9 for subpart D of part IV of subchapter A of chapter 1
10 of the Internal Revenue Code of 1986 is amended by add-
11 ing at the end the following:

“Sec. 45G. Workplace safety program credit.”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2003.

15 **TITLE VI—NATIONAL CLEARING-**
16 **HOUSE ON DOMESTIC AND**
17 **SEXUAL VIOLENCE IN THE**
18 **WORKPLACE GRANT**

19 **SEC. 601. NATIONAL CLEARINGHOUSE ON DOMESTIC AND**
20 **SEXUAL VIOLENCE IN THE WORKPLACE**
21 **GRANT.**

22 (a) AUTHORITY.—The Attorney General may award
23 a grant in accordance with this section to a private, non-
24 profit entity or tribal organization that meets the require-
25 ments of subsection (b), in order to provide for the estab-

1 lishment and operation of a national clearinghouse and re-
2 source center to provide information and assistance to em-
3 ployers, labor organizations, and advocates on behalf of
4 victims of domestic or sexual violence, in their efforts to
5 develop and implement appropriate responses to assist
6 those victims.

7 (b) GRANTEES.—Each applicant for a grant under
8 this section shall submit to the Attorney General an appli-
9 cation, which shall—

10 (1) demonstrate that the applicant—

11 (A) has a nationally recognized expertise in
12 the area of domestic violence, dating violence,
13 sexual assault, and stalking, and a record of
14 commitment and quality responses to reduce
15 domestic violence, dating violence, sexual as-
16 sault, and stalking; and

17 (B) will provide matching funds from non-
18 Federal sources in an amount equal to not less
19 than 10 percent of the total amount of the
20 grant awarded under this section; and

21 (2) include a plan to maximize, to the extent
22 practicable, outreach to employers (including private
23 companies, as well as public entities such as univer-
24 sities, and State and local governments) in devel-
25 oping and implementing appropriate responses to as-

1 sist employees who are victims of domestic or sexual
2 violence.

3 (c) USE OF GRANT AMOUNT.—A grant under this
4 section may be used for staff salaries, travel expenses,
5 equipment, printing, and other reasonable expenses nec-
6 essary to assemble, maintain, and disseminate to employ-
7 ers, labor organizations, and advocates described in sub-
8 section (a), information on and appropriate responses to
9 domestic violence, dating violence, sexual assault, and
10 stalking, including—

11 (1) training to promote a better understanding
12 of appropriate assistance to employee victims;

13 (2) conferences and other educational opportu-
14 nities;

15 (3) development of protocols and model work-
16 place policies;

17 (4) employer- and union-sponsored victim serv-
18 ices and outreach counseling; and

19 (5) assessments of the workplace costs of do-
20 mestic violence, dating violence, sexual assault, and
21 stalking.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out this section
24 \$500,000 for each of fiscal years 2004 through 2008.

1 **TITLE VII—SEVERABILITY**

2 **SEC. 701. SEVERABILITY.**

3 If any provision of this Act, any amendment made
4 by this Act, or the application of such provision or amend-
5 ment to any person or circumstance is held to be unconsti-
6 tutional, the remainder of the provisions of this Act, the
7 amendments made by this Act, and the application of such
8 provisions or amendments to any person or circumstance
9 shall not be affected.

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